

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Katie L. Foix,

Civil 07-2978 JNE/FLN

Plaintiff,

v.

O R D E R

Michael J. Astrue, Commissioner
of Social Security,

Defendant.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Franklin L. Noel dated May 15, 2008, all the files and records, and no objections having been filed to said Report and Recommendation,

IT IS HEREBY ORDERED that:

1. Plaintiff's Motion for Summary Judgment is granted in part [Docket No. 8];
2. The decision of the Commissioner is reversed and the case is remanded to the Commissioner pursuant to Sentence 4 of Section 405(g) for further proceedings consistent with the opinion of the Magistrate Judge. In particular, the ALJ must:
 - a) Clarify which opinions he is crediting in formulating the hypothetical question to the vocational expert;
 - b) To the extent the ALJ credits only parts but not all of a source's opinion because parts are inconsistent with other opinions he credits, or otherwise, the ALJ must articulate the inconsistency and explain why he rejects those portions he does not credit;
 - c) To the extent the ALJ continues to not give the entirety of Ms. McHardy's opinion controlling weight, the ALJ must explain why and more fully explain why he gave more weight to the consulting opinions than to Plaintiff's treating sources.

3. Defendant's Motion for Summary Judgment is denied [Docket No. 11].

DATED: June 9, 2008.
at Minneapolis, Minnesota

s/ Joan N. Ericksen
JUDGE JOAN N. ERICKSEN
United States District Court